

REMARKS

This is in response to the Office Action (restriction requirement) of June 3, 2009. Claim 14 is cancelled, without prejudice to its reassertion in this or a continuing application, in order to reduce issues herein. Minor formal amendments, which do not change the scope of the claims, are made to claims 2 and 8. No new matter is introduced by this Amendment. Claims 1-13 are now pending in the present application.

Restriction was required amongst three invention groups, identified by the Examiner as Group I (claims 1-10), Group II (claims 11-13), and Group III (claim 14). Applicants elect the invention of Group I, with traverse. At least claims 1-10 read on the elected invention.

TRAVERSE – UNITY OF INVENTION EXISTS HEREIN

In support of the requirement for restriction, the Examiner denies that Groups I and II are characterized by unity of invention. The Examiner contends that the inventions “lack the special technical features the method for detecting the presence of biofilm-forming microorganisms as specifically recited in the method steps a) through d) of claim 1 has been fully disclosed in the PRIOR ART (... Schapira et al, US 5,349,874 ...).” However, the prior art cited by the Examiner fails to disclose steps (c)¹ and (d)² of Applicants’ process. The present novel detection method is based on the naturalistic behavior of biofilms. That is, the microbe cells which were in the biofilm and survived the biocide treatment are actively colonizing new surfaces (offered to them in the new plate with recessions), and the colonization rate is detected simply and easily based on staining.

Schapira uses grinding in fine sand, then vigorous mixing, followed by centrifugation and agar plating. The description therein of how the cells will be detached from the sampler surfaces and cultivated on agar plates, etc., is inaccurate. Efficient biofilm bacteria are not easily

¹ Contacting the surface of the sampler with said biofilm thereon with a liquid growth medium in a recession of a culturing device for a period of time.

² Removing the growth solution and the surface of the sampler from the recession of said device and detecting qualitatively and/or quantitatively the presence or absence of biofilm-forming microorganisms adhered on the walls of the recession.

detached from the sampler surface and from each other for reliable dilution series and plating. The Schapira approach is significantly more laborious than that provided by the present invention.

The detection method of the present invention is very different from what is in the prior art. The present method is easier and faster than prior art methods, inasmuch as there is no need to actively detach the cells from the sampler surface in any of the steps of the present invention. During Applicants' steps (c) and (d), the biofilm cells are actively colonizing the new surfaces, which clearly differentiates Applicants' invention over the prior art – and which accordingly constitutes a “special technical feature.”

Withdrawal of the requirement for restriction between Group I and Group II is in order and is earnestly solicited.

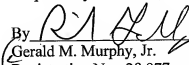
Contact information

An early and favorable first action on the merits of claims 1-13 is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Richard Gallagher (Reg. No. 28,781) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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Respectfully submitted,

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